

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.2055 OF 2005

Anil Badrumal Lalwani ... Applicant

versus

The State of Maharashtra ... Respondent

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Mr.S.D. Dharmadhikari, for the Applicant.

Mr.V.B. Konde Deshmukh, A.P.P., for the
Respondent.

...

CORAM : A.M.KHANWILKAR, J.

7th April 2005

P.C.:

. Heard Counsel for the parties. This matter has been adjourned twice on the request of the learned A.P.P. to seek instructions. Even today, the learned A.P.P. informs that the officer has not come to give instructions nor forwarded relevant papers with instructions. No further indulgence can be shown. The fact that

the investigating officer has not made necessary arrangement to give instructions to the learned A.P.P. cannot be reason to keep on adjourning the matter repeatedly. In the circumstances, this Court has no option, but to proceed with the hearing of the application on the basis of material already placed on record by the Applicant.

. The prosecution case seems to be that the Applicant, accused No. 7, who is a businessman, took financial assistance from accused Nos. 1 and 2 to the extent of Rs.5,22,800/- even though the accused Nos.1 and 2 were only Bank employees. That by itself cannot be the basis to assume that the Applicant was involved in the act of committing fraud and misappropriation by accused Nos.1 and 2. Viewed in this perspective, the Applicant cannot be treated on par with accused Nos.1 and 2, who are principal offenders. There is nothing to suggest that the Applicant had knowledge that accused Nos.1 and 2 had committed fraud and misappropriation. Accordingly, this application ought to succeed on the following terms.

(A) The Applicant is directed to be released on bail in connection with CR.No. 14/2005 registered at Kagal Police Station on executing personal bond in the sum of Rs.20,000/- with two local sureties in the like amount.

(B) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicant shall report to the concerned police station twice a week on Wednesday and Sunday between 10 a.m. to 2 p.m. till the filing of the chargesheet.

(D) The Applicant shall co-operate for early disposal of the trial. If the trial Court is of the opinion that the Applicant is in any manner responsible for the delay in disposal of the trial, that fact be recorded in the roznama,

which can be a ground for cancellation of bail.

. Application disposed of on the above terms.

. Copy of this order be forwarded to the Superintendent of Police, Kolhapur, in the light of observation made in this order in respect of assistance given by the investigating officer to the Public Prosecutor in defending the present application for taking necessary action in the matter, if so advised. It is obvious that the investigating officer has not honoured the recent instructions issued by the Home Department to ensure that immediate steps should be taken to send instructions to the Public Prosecutor on receipt of the intimation about the hearing of the bail applications.

. Copy of the order be also forwarded to the Principal Secretary, Home Department, for information and necessary action, if so advised.

(A.M.KHANWILKAR, J.)